

REMARKS

Reconsideration is requested.

Claims 1-68, 91, 100 and 103 have been canceled, without prejudice. Claims 104-106 have been added to define further patentable aspects of the disclosure. Claim 104 finds support throughout the specification, such as at page 5, lines 15-17. Claim 105 finds support throughout the specification, such as at page 8, lines 12-15. Claim 106 finds support throughout the specification, such as at page 5, lines 5-9. No new matter has been added.

Claims 69-90, 92-99, 101, 102 and 104-106 are pending.

Clarification is requested regarding the scope of the subject matter searched.

Specifically, the Examiner is understood to have examined the claims of the elected Group (i.e., Group III of the Office Action dated October 12, 2007) which originally was indicated to be defined by claims 69-103. See page 3 of the Office Action dated February 28, 2007.

The Examiner states on page 4 of the Office Action dated October 12, 2007 "Scope of Subject matter Searched" however that while the additional species election requirement of May 29, 2007 was mailed in error (see page 2 of the Office Action dated October 12, 2007) only claims 69, 70, 74, 77, 80, 85, 86, 87, 91-93, 96, 97, and 98-103 (in part), have been searched and examined. The Examiner has confirmed however that all of the subject matter of the Examiner's Group III (i.e., claims "drawn to compounds of Formula (I), wherein X₆ is oxygen, X₂ is not bound to carbon 3 of the propene chain, and the remaining substituents are as defined, as well as the methods of

preparing and using these compounds and compositions.”) has been searched and examined. See page 4 of the Office Action dated October 12, 2007.

All of the pending claims are believed to read on the elected subject matter and the Examiner is requested to confirm in a further communication that all of the pending claims 69-90, 92-99, 101, 102 and 104-106 read on the elected subject matter and have been searched and examined. Alternatively, clarification is requested along with a basis in the Rules and/or MPEP for the Examiner having searched and examined less than all of the claims originally indicated as reading on the subject matter of the Examiner's Group III.

As the Examiner has not made the restriction requirement FINAL in the Office Action of October 12, 2007, petition to the Commission at the present is understood to be untimely. The Examiner is requested to advise the applicants of the status of the restriction requirement and specifically whether the restriction requirement has been made FINAL and where the same may be found in the record.

Further, while the Office Action of October 12, 2007 indicates that claims 69, 70, 74, 77, 80, 85, 86, 87, 91-93, 96, 97, and 98-103 have been searched, the Office Action does not indicate that any of claims 71, 72, 73, 75, 76, 78, 79, 81-84, 88-90, and 94-95, have been withdrawn from consideration. Clarification is requested.

The Section 112, first paragraph “enablement”, rejection of claims 100 and 103 is moot in view of the above amendments. The Section 112, first paragraph “enablement”, rejection of claims 101 and 102 is believed to be obviated by the above amendments. Specifically, the Examiner is understood to have acknowledged on page 9 of the Office Action dated October 12, 2007 that the specification is enabling for treating cerebral

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ischemia and hemorrhagic stroke. New claims 104-106 are believed to be similarly supported by the disclosure. The Examiner is requested to see, for example, page 5, lines 5-17 and Example 6 of the specification. Withdrawal of the Section 112, first paragraph, rejection of claims 100-103 is requested.

The Examiner is requested to hold the obviousness-type double patenting rejections of claims 69, 70, 74, 77, 80, 85, 86, 87, 91-93, 96, 97 and 99-103 over claims 1-10 of copending Application No. 11/493,040; and claims 38-68 of Application No. 10/520,078 until such time as allowable subject matter is identified and the Examiner further clarifies the issue of the restrictions requirement and the scope of the search, as requested above.

The claims are submitted to be in condition for allowance and a Notice to that effect is requested. The Examiner is requested to contact the undersigned, preferably by telephone, in the event anything further is required in this regard.

Respectfully submitted,

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